



PROTECTING HAWAII'S CITIZENS 2007 INITIATIVES

Protecting Hawai'i's citizens has been and continues to be a top priority of the Lingle-Aiona Administration. From our keiki to our kupuna, from our schools to our streets, the Administration is committed to protecting Hawai'i's citizens and visitors. This year the Administration's initiatives provide law enforcement and the courts with the tools necessary to ensure that Hawai'i is a safer place for everyone.

Traffic Safety

Pedestrian Safety

Pedestrian fatalities continue to be a problem in the State of Hawai'i. From 2001 to 2006, there were a total of 185 pedestrian fatalities statewide and last year 20 percent of total traffic fatalities were pedestrians. Despite public awareness campaigns, some drivers refuse to respect the rights of pedestrians.

The Administration is proposing that drivers convicted of failing to yield to pedestrians in marked crosswalks be fined a minimum of \$150 and lose their driving privileges for at least 90 days for a first offense; fined \$300 and lose their license for 180 days for a second offense within a year of the first offense; and fined \$1,000, lose their license for a year, and go to jail for 30 days for a third conviction within a year of their second conviction.

Suspended / Revoked Licenses for DUI

People who continue to drive despite having had their licenses revoked or suspended due to DUI convictions are a danger to everyone else driving or walking on a roadway.

The Administration has introduced a bill to protect citizens from individuals who act without regard to the law, court orders, or the well-being of others. This bill makes it a felony offense for a person to continue to drive in violation of a court order revoking or suspending his license. If a person is found driving during a period when his or her license has been revoked, the individual would be subject to five years in prison or 90 days in prison and five years probation. A five-year license revocation would begin upon completion of the five years in prison or on probation. If the person is a habitual DUI driver, he or she would be subject to five years in prison without the possibility of suspended sentence or probation and his or her license would be revoked forever.

Personal Responsibility

Today in Hawai'i, a person can collect hundreds of thousands of dollars in damages for injuries suffered in motor vehicle or moped/motorcycle accidents even though the injured person failed to appropriately protect him or herself by wearing a seat belt or helmet. This drives up the cost of insurance and health care for everyone. The Administration is proposing that a court may take into consideration the fact that the injured person was not wearing a seat belt or helmet as evidence of negligence on the injured person's part.

Drug and Alcohol Abuse

Jail Time for Giving Liquor to Minors Act

Alcohol continues to be the “drug of choice” for Hawai'i's youth. All too often, until someone is hurt or killed, many adults fail to see the danger in allowing young people to drink. Some adults are complicit in providing alcohol to minors. The Lingle-Aiona Administration is proposing the “Jail Time for Giving Liquor to Minors Act” to require mandatory jail time for any adult who provides alcohol to a minor. A jail term of 10 days for the first offense, 20 days for a second offense within five years of the first offense, and 30 days for a third offense will make adults think twice before providing liquor to minors.

Information Charging

In 2004, the State Legislature passed a law that pinpointed the particular dangerous drug methamphetamine (meth) and set it apart in a new section as the crime of unlawful methamphetamine trafficking. Unfortunately, the law that allows the crime of distribution of a dangerous drug to be initiated by information charging – a process where the facts of the case are presented in written form to a judge who then decides if there are grounds to bring charges against the accused – was not updated at the same time to include the new methamphetamine section. Thus, unlike all other dangerous drug distribution cases, meth cases must go through the long and cumbersome grand jury process in order for charges to be brought. The Administration proposes to fix this oversight and to allow prosecutors to initiate the offense of unlawful methamphetamine traffic by information charging.

Screening, Brief Intervention, Referral and Treatment (SBIRT)

Medical personnel, particularly in emergency rooms and trauma centers, regularly encounter persons who have sustained injuries, loss, or trauma resulting from the use of alcohol or illegal drugs. This initial point of contact in a medical setting is a recognized window of opportunity where individuals are most open to intervention and dialogue that address their underlying alcohol or substance abuse issues. It is at this “teachable moment” that individuals can benefit from an assessment, education, counseling, or, if necessary, referral to treatment. The Administration is proposing \$2.6 million over two years for a pilot program between the John A. Burns School of Medicine and the emergency department of a major urban medical facility in Honolulu for screening, brief intervention, and referral to substance abuse treatment of individuals who are brought to emergency rooms with injuries while under the influence of alcohol or illicit drugs. Evidence from existing programs conducted in medical settings nationwide shows dramatic reductions in alcohol and other drug use among patients receiving services, generating positive net benefit for patients, the healthcare system and society.

Helping Law Enforcement Officers

Vital Statistics Records

Law enforcement officers sometimes need access to vital statistics records during the course of investigating or prosecuting a crime. For example, in homicide investigations, access to the death certificate can be helpful when deciding what charge, if any, to bring against a suspect. Another example would be the need to access birth certificates in sexual assault cases when the age of the victim or the age of the suspect needs to be ascertained by the investigator. Currently, however, the Department of Health is generally not permitted to allow access to vital statistics records to law enforcement officers.

The Lingle-Aiona Administration is proposing a narrow exception that would allow law enforcement officers access to vital statistics records when needed in relation to their law enforcement duties and only when the request is signed under penalty of criminal prosecution for misuse. Such access would allow crimes where vital statistics records are needed as evidence to be investigated quicker and more efficiently.

Knock and Announce Law

In 2005, the Hawai'i Supreme Court threw out the conviction of one of Hawai'i's most dangerous and wanted criminals because the police did not "strictly comply" with the "knock and announce" law regarding entry to a private dwelling. Even though the officers knocked, announced who they were, and received permission to enter, the Court found that they did not follow the exact letter of the law by waiting a "reasonable time" to enter or by announcing they had an arrest warrant. The Administration is proposing that the law be clarified to require that police officers "substantially" comply with the "knock and announce" law under the same guidelines as required by the United States Constitution.

Copper Theft

Recent thefts of copper have plagued the State and are costing resident taxpayers, public utility companies, private companies, and state entities significant revenue to replace the copper that has been stolen and to repair damage caused by these thefts. Since May 2006, copper thieves have caused over \$300,000 in damage to state freeways along central and west O'ahu, ripping out wiring from about 100 light fixtures and leaving stretches of darkness in several primary areas putting thousands of motorists in harms way. In addition, at least one State park has been closed due to copper theft and at least six power failures have been reported by Hawaiian Electric Company owing to copper theft.

The Administration proposes to crack down on copper theft by creating the new criminal offense of "theft of copper" and by strengthening the requirements placed upon scrap dealers when purchasing copper to ensure that they do not facilitate the sale of stolen copper. If the scrap dealers cannot buy stolen copper, the copper thieves will have no incentive to steal.

DNA Sample

All individuals convicted of a felony offense in Hawai'i are required to submit a DNA swab sample for the purpose of establishing a database that can be used to solve crimes, including cold cases, and exonerate the innocent. However, currently, if a felon refuses to give a sample, the only thing that can be done is charge him with a misdemeanor. For many felons, a misdemeanor is not likely to change their minds.

The Administration proposes to make refusal to provide a DNA swab sample a felony offense because threat of an additional felony charge is much more likely to result in cooperation by offenders. In addition, the Administration proposes that, if a felon still refuses to provide a DNA sample, those tasked with collecting the sample should be able to use "reasonable force" under supervision to collect it.

Protect Victims of Domestic Violence Act

The Lingle-Aiona Administration proposes the "Protect Victims of Domestic Violence Act" to provide greater protection to victims of domestic violence who have received protective orders from the courts. This proposal would make it a First Degree Murder charge for anyone who knowingly or intentionally kills a person while violating a restraining order. The proposal also elevates the penalties for other violations of protective orders to include Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree.

Prior Convictions Involving Dishonesty of False Statements

In federal court, a prior conviction involving dishonesty or a false statement on the part of any witness or criminal defendant is admissible to assist the judge or jury in evaluating the credibility of the testifier. In Hawai'i, however, such information can be used only against witnesses – it is not admissible against a criminal defendant testifying in his own defense. The Administration is proposing a constitutional amendment to allow a judge or jury to hear evidence that a criminal defendant who chooses to testify at his or her own trial has been previously convicted of making false statements or of crimes involving dishonesty. If a criminal defendant's attorney can bring forth evidence that a witness in the trial has previously been convicted of this type of crime, it is only fair that the prosecutor be able to introduce evidence that a defendant under oath has also been convicted of such a crime.

Protecting Children

Prohibiting Name Changes for Sex Offenders

Criminals who are required to register as sex offenders should not be allowed to petition the Lieutenant Governor for a name change in order to avoid the registration requirements. Such name changes can result in confusion, difficulty in tracking sex offenders, and difficulty in enforcing the requirements of the sex offender registration law. The Administration proposes to ban registered sex offenders from changing their names unless they have a compelling legal reason to do so, e.g., adoption, marriage, divorce.

Child Support Enforcement Agency

The Administration proposes giving the Child Support Enforcement Agency the ability to request an administrative hearing upon being served with a proposed administrative order in child support cases. By allowing the agency to make a request for hearing, the administrative process will be more expeditious when new information is received after the parties have been initially served with a proposed administrative order. This will assist in making the child support enforcement process more consistent and would help to eliminate some of the problems and delays currently experienced by the Child Support Enforcement Agency.

Child Drug Endangerment

Last year, the Legislature passed a law to expand the crimes of endangering a minor in the first and second degrees to include individuals who cause or permit a minor to ingest methamphetamine. The Administration propose to protect minors from the harmful effect of other illicit and dangerous drugs including cocaine by expanding the law to include any controlled substance that has not been prescribed by a physician. Thus, anyone caring for or having custody of a minor who permits the child to inject, ingest, inhale, or otherwise use these drugs would face charges of endangering a minor in the first or second degree.

Foster Youth Benefits

The Lingle-Aiona Administration is proposing to extend the current eligibility of former foster youth to receive higher education benefits from age 21 to age 26. The length of the benefit would also be increased from 12 to 60 months. The Administration's proposal will provide needed support for education and successful transition to self-sufficiency by allowing more former foster youth to complete a post-secondary education. This will increase chances of full-time and higher paid employment and decrease the need for other financial assistance to former foster youth as adults. The Administration has budgeted \$636,000 for the first two years of this expanded educational program.

Guardianship

The Administration proposes amending the law to specify that when the Family Court determines by clear and convincing evidence that a child's parents cannot now or in the reasonably foreseeable future provide the child with a safe family home, the Department of Human Services may submit a permanent plan with a goal of guardianship and the Court may award guardianship to an appropriate entity without termination of parental rights. This will ensure that children who cannot be reunited with their parents in a safe family home are provided with the permanency and stability of guardianship as a culturally acceptable option that is consistent with the "hanai" placement concept. This will help to ensure that family connections, important to the child, are not unnecessarily broken.

Hawai'i Youth Correctional Facility

Current law defines the purpose of the Hawai'i Youth Correctional Facility (HYCF) as "to provide for the incarceration, punishment, and institutional care and services to reintegrate into their communities and families, children committed by the courts of the State." Some of the terminology in the law is incompatible with the modern goals of a youth facility whose activities are geared towards rehabilitation, not punishment. The Administration proposes to replace the word "punishment" with "rehabilitation." In addition, the Administration proposes changing the word "children" to "youth" since the latter is commonly used to refer to children age 12 years and over, the age group considered for placement at HYCF.

Protecting Seniors

Unscrupulous scam artists often target senior citizens, especially in the area of investments. Attempts to defraud seniors are particularly deplorable since seniors often are retired, have to live off their life's savings, and may be more vulnerable than other investors. The Administration has introduced a bill to increase the protection of seniors against securities fraud by allowing an extra \$50,000 fine per violation to be added to any other civil or administrative fine(s) levied for violations of Hawai'i's Uniform Securities Act if those violations are committed against persons aged 62 or older.

Financial abuse of elders and dependent adults has become increasingly widespread throughout the nation. Many states have enacted legislation to curtail this disturbing trend. The officers and employees of a financial institution or licensed escrow depository are in a unique position to observe activity relating to financial abuse involving elders or dependent adults. The Administration has introduced a bill that would impose a mandatory duty on any officer or employee of a Hawai'i state-regulated financial institution or a licensed Hawai'i escrow depository to report a suspected incident of abuse, immediately by telephone and within two working days by written report, to a local law enforcement agency.

The Administration has also introduced a measure that will enhance protections for elderly consumers by increasing sanctions for violations by mortgage brokers and solicitors committed against elders. The bill provides for sanctions in an amount up to \$10,000 for each violation.